



**TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
MEMPHIS ENVIRONMENTAL FIELD OFFICE**

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VIA CERTIFIED MAIL: 91 7108 2133 3932 2044 7605
RETURN RECEIPT REQUESTED

July 22, 2014

The Honorable Sharon Goldsworthy
Mayor
City of Germantown
1930 South Germantown Road
Germantown, TN 38138

Re: City of Germantown, Phase II Municipal Separate Storm Sewer System (MS4) Audit
National Pollutant Discharge Elimination System Permit Number: TNR075337
Shelby County

Dear Mayor Goldsworthy:

Over the past 30 years, the Environmental Protection Agency (EPA) and state water quality agencies have realized the great impact that rain water runoff has on surface waters - streams, rivers, lakes, estuary and ocean waters. Rain water falling on industries, urban areas and construction activities can become contaminated with sediments, suspended solids, nutrients phosphorous and nitrogen, metals, pesticides, organic material and floating trash. These pollutants are then carried into the surface waters. Unlike sanitary wastewater and industrial wastewater, most stormwater is not treated prior to entering streams. Therefore, it is imperative that stormwater runoff within urbanized areas be managed so that pollutants are minimized or eliminated from entering surface waters. The Municipal Separate Storm Sewer System (MS4) permit is a type of permit administered by the Tennessee Department of Environment and Conservation (TDEC), Division of Water Resources (DWR) to reduce the amount of pollutants in stormwater runoff.

EPA requires that the Division conduct an audit of the MS4 program. Therefore, on June 2-5, 2014, Mr. Terry Templeton and Ms. Crystal Warren, with TDEC-DWR, Memphis Environmental Field Office, conducted an audit of the City of Germantown's MS4 program. On June 9, 2014, we conducted an exit interview with Tim Gwaltney and Tim Bierdz with Germantown Engineering. Several other Germantown staff were also present, including but not

limited to Patrick Lawton and Cameron Ross. The audit was accomplished by reviewing Germantown's stormwater records and ordinances, conducting site inspections of selected municipally owned/operated facilities, and observing City staff as they performed construction inspections. During the audit, Division staff primarily met with Mr. Tim Gwaltney (City Engineer) and Mr. Tim Bierdz (Stormwater Engineer). Cameron Ross, Economic and Community Development Director, also participated in several of the audit sessions. The Division greatly appreciates the time and commitment from your staff during the audit, especially Mr. Ross' involvement and awareness of the MS4 program. Their efforts helped expedite the audit process.

Division staff evaluated the City's MS4 stormwater program by reviewing Germantown's efforts to address the six minimum control measures, as well as monitoring and reporting, required by the permit. This letter contains information regarding the compliance status of Germantown's MS4 program relative to the requirements set forth in the permit. Recommendations for areas where modifications or improvements to the MS4 program should be considered are listed below. Furthermore, required actions are listed for those areas where the MS4 program does not currently meet the requirements set forth by the permit.

The City of Germantown's coverage under the current Phase II MS4 Permit became effective on April 29, 2011. As required by the permit, Germantown developed a Stormwater Management Plan (SWMP) to address the six minimum control measures listed in the permit, and Germantown provided a copy of the SWMP to DWR prior to the audit. However, review of the SWMP revealed that it had not been updated since 2012. Please be aware that although the SWMP addresses most of the requirements of the permit, updates will be necessary, especially in light of changes to the program that are required or recommended in this report. The SWMP should be considered a "living document" and should be revised and updated on a continual basis and reference other important, relevant documents such as City Ordinances and the Enforcement Response Plan (ERP).

Required Action: Revise and update the SWMP as needed to address program changes that are implemented as a result of the audit or that are implemented in the future as issues arise. Please refer to Section 4.1 of the MS4 permit for additional information.

Minimum Control Measure – Public Education and Outreach (Section 4.2.1)

Germantown has developed a Public Information and Education (P.I.E.) plan. According to Germantown MS4 staff, Germantown utilizes various methods for educating the public, including the City's website, Tennessee Association of Broadcasters commercials, hosting "TN Smart Yards" seminars (a public education class regarding yard management for Germantown residents), the *Talk of the Town* publication (a newsletter mailed to all Germantown residents), various brochures which are distributed to citizens, signage about water quality in parks and along the Wolf River, pre-construction meetings (including use of the Redbook-a guidance document regarding Germantown construction related requirements for developers and contractors, etc.), and other mechanisms. Although tracking of these activities has occurred to some degree, a comprehensive tracking system has not been utilized.

Required Action: Develop a system to track activities performed under the P.I.E., including but not limited to, the date activities occur and the number of participants in attendance or materials distributed. Information regarding expected water quality improvements or actual effectiveness of educational methods should be included. Please refer to Section 4.2.1 of the MS4 permit for additional information.

According to Germantown staff, although they understand the definition of “hot spots” (areas where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater), Germantown has not designated any “hot spots,” although facilities that could potentially qualify as hot spots are located within Germantown. The definition of “hot spots” should be included in Germantown’s ordinances, and relevant educational activities that would apply to “hot spots” should be specified and tracked. A provision to target “hot spots” with specific educational or outreach events and/or activities is required by the permit.

Required Action: Develop and implement educational and/or outreach programs which specifically focus on pollutants of concern from “hot spots.” Amend the ordinance to include the definition of “hot spots,” and develop a plan to appropriately address “hot spots.” Please refer to Section 4.2.1 of the permit for additional information.

Recommended Action: Re-evaluate areas in Germantown’s jurisdiction that meet the definition of “hot spots” as defined in the MS4 permit to determine if these areas should in fact be designated as a hot spot.

Germantown’s P.I.E. plan is fairly thorough but has some elements in it that are not being implemented, such as tracking and methods to evaluate the effectiveness of the P.I.E. Because of the lack of tracking/reporting, it is also unclear whether all the activities listed in the P.I.E. have been accomplished.

Required Action: Conduct an appropriate activity or activities to evaluate the effectiveness of the P.I.E. Assess whether the activities presented in the P.I.E. have been completed, need to be modified, or need to be deleted. Based on the results of the activity or activities, modify the P.I.E. to reflect the evaluation method or methods, and modify planned P.I.E. activities as necessary. Please refer to Section 4.2.1 of the MS4 permit for additional information.

Although Germantown has a presentation regarding the importance of stormwater on the City’s network drive, which is available to all municipal staff, the presentation has never been given in person to municipal staff.

Recommended Action: Provide educational training on a regular basis to municipal employees regarding identifying and reporting procedures for illicit discharges, sanitary sewer seepage, spills, etc. as well as the impacts that daily operations can have on water quality.

According to Section 4.2.1 of the permit, Germantown's P.I.E. should include targeted educational campaigns to address various groups. The P.I.E appears to address all the various groups as listed in the permit, except the plan does not address making professional chemical applicators aware of the proper storage, use, and disposal of pesticides, herbicides, and fertilizer (see Section 4.2.1.d of the permit).

Required Action: Modify and update the P.I.E to include educational campaigns targeted to professional chemical applicators on the proper storage, use, and disposal of pesticides, herbicides, and fertilizer. Please refer to Section 4.2.1.d of the MS4 permit for additional information.

Minimum Control Measure – Public Involvement and Participation (4.2.2)

The method of advertising Germantown's public involvement opportunities was required to be implemented by 5/29/2011. Germantown MS4 staff stated that Germantown is complying with the public notice requirements of the permit by utilizing public meetings, the *Talk of the Town* publication, utility bill messages and Germantown's website.

Recommended Action: Publish appropriate public notices, and keep hard copies of the newspaper articles, printouts from media sources or other documentation on file. Changes to the tracking system for effectively managing and reporting all public involvement and participation activities should be considered.

Germantown has a stormwater web page which educates citizens on the importance of stormwater and identifies pollutants that contribute to the impairment of streams. Contact information for the stormwater manager is present; however, the web page is not easily accessible from the main Germantown web page.

Recommended Action: Modify the City's web page structure so that the stormwater page can be easily accessed from the City's main web page.

Germantown staff stated that Germantown has sponsored several stormwater related volunteer activities. These events have included planting trees and assisting Boy Scouts in repairing boardwalks in a wetland mitigation area.

Recommended Action: Consider developing additional activities by which citizens, Home Owner Associations, Boy/Girl Scouts, or other groups, such as the Germantown Environmental Commission, can provide assistance to Germantown to continue improving stormwater quality. Utilize a more detailed tracking system for documenting key information pertaining to each event and to document related or expected water quality improvements.

Most citizen calls regarding illegal spillage, dumping or illicit disposal of materials are handled using the City's SunGard system, a public-sector enterprise software system. Reports can also be made by telephone or email. However, there is no web-based mechanism for citizen reporting of these situations.

Required Action: Implement a mechanism to track and maintain records of public involvement and participation activities. The information should be summarized in the annual report. Please refer to Section 4.2.2 of the MS4 permit for additional information.

Recommended Action: Set up a web-based mechanism for citizen reporting of spills, dumping, etc.

Minimum Control Measure – Illicit Discharge Detection and Elimination (4.2.3)

The Illicit Discharge Detection and Elimination (IDDE) program and Enforcement Response Plan (ERP) were to have been implemented by 10/29/12. These requirements are contained in Germantown's ordinance 21-306. Germantown maintains a storm sewer system map on paper and in a Geographic Information System (GIS). Although staff within the Engineering, Planning and Public Services departments have access to the GIS maps, they must go through the City's Planner for that access. During the audit, Germantown staff stated that they are also planning to add photographs of the outfalls to the GIS.

Recommended Action: Enhance the accessibility of GIS so that all Engineering, Planning and Public Services staff has access to the GIS maps. During the audit, DWR suggested utilizing a desktop GIS tool to facilitate access to the GIS data, as well as linking Germantown's SunGard system to their GIS. The map should periodically be assessed to ensure it is complete and up to date.

Germantown staff stated that field screenings of outfalls for illicit discharges are conducted, but they are often done in conjunction with other activities. In addition, staff explained that field screenings of outfalls for the Wolf River were performed quarterly and Nonconnah Creek annually. While field screening of outfalls are helpful in identifying illicit discharge, please be aware that screenings of other system inputs, such as catch basins and inlets, will provide for a more effective and holistic illicit discharge detection program. Additionally, DWR explained the need for Germantown to have a Standard Operating Procedure (SOP) for field screenings, as well as the importance of educating Germantown municipal staff, citizens and businesses about potential problems with illicit discharges and improper disposal of wastes.

Required Action: Implement appropriate measures to regularly conduct field screenings for illicit discharges of all system inputs, to specify appropriate procedures for all staff who may conduct such screenings, and to document and track the screenings. Please refer to Section 4.2.3 of the MS4 permit for additional information.

Recommended Action: Ensure that Germantown's field screening program includes all types of stormwater outfalls into waters of the state in order to comprehensively identify potential sources of illicit discharge.

Recommended action: Implement mechanisms to proactively educate Germantown staff, citizens and businesses about illicit discharges.

Although Germantown has an Enforcement Response Plan (ERP), the plan primarily addresses construction-related issues. The MS4 permit requires additional information, such as enforcement escalation procedures, IDDE procedures, complaint investigation deadlines, and noncompliance with post-construction requirements, etc., to be included in the ERP.

Required Action: Modify and enhance the ERP to address all of the requirements listed in the permit, not just construction, and to be more comprehensive in scope. Please refer to Sections 4.2.3 and 4.5 of the MS4 permit for additional information.

Although “hot spots” are not specifically mentioned, Germantown has prohibited contamination of storm water runoff in its ordinances. As mentioned above, the ERP should have provisions for the IDDE program, including escalation of enforcement procedures.

Required Action: Revise the ERP to include all types of illicit discharges, and modify the ERP to more clearly reference the connection between the ordinances and the ERP. The enabling ordinance must allow for the maximum penalty per day for each day of the violation as specified in TCA 68-221-1106. Please refer to Sections 4.2.3 and 4.5 of the MS4 permit for additional information.

Citizen reports of illicit discharge are primarily received through the SunGard system. Germantown does not have a direct method, such as a hotline or website, which allows citizens to report illegal spillage, dumping, or other illicit disposal of materials into the MS4 system. During the audit, an illicit discharge complaint that the City had previously received was discussed. It was determined that Germantown’s response to the complaint was not within seven days as required by the permit.

Required Action: Implement procedures to ensure response to citizen complaints occurs within seven days as required by the permit. Please refer to Sections 4.2.3 of the MS4 permit for additional information.

Recommended Action: Implement additional measures that will allow the public to directly report illicit discharges, such as adding a stormwater hotline or enhancing the City’s website to allow citizens an additional mechanism for reporting illicit discharges to the City’s stormwater system.

In case of a hazardous waste or material spill the Germantown Fire Department (FD) is the primary responder. Written guidelines and procedures for responders are contained in the FD’s SOP (Standard Operating Procedure).

Recommended Action: Develop guidelines, procedures and/or training to make all municipal staff aware of who would respond to a hazardous waste or material spill and the reporting responsibility of each individual.

Although Germantown MS4 staff have established a framework for the IDDE program and are aware of the procedures that should be followed, a SOP for conducting the IDDE program has not been formally written and implemented.

Required Action: Develop and implement a SOP that details how to investigate portions of the MS4 that indicate a reasonable potential of containing illicit discharges or other sources of non-stormwater. Document these investigations and the results of the investigations. Please refer to Section 4.2.3 of the MS4 permit for additional information.

Minimum Control Measure – Construction Site Stormwater Runoff Control (Section 4.2.4):

This program element should have been implemented by April 29, 2013. Program requirements corresponding to the current Tennessee Construction General Permit (CGP) were due by October 29, 2012. The applicable ordinance (Article VII) passed the third reading) on September 27, 2010. Therefore, it appears that the applicable ordinance was passed prior to the issuance of the current CGP.

Required action: Ensure the ordinance has appropriate references to the current version of the CGP and other relevant documents, including the Tennessee Erosion and Sediment Control Handbook. Please refer to Sections 4.2.4.a of the MS4 permit for additional information.

Germantown's construction stormwater program generally meets the requirements of the permit and is one of the most resource intensive aspects of the City's stormwater program. Construction site plans are reviewed according to the Construction Plans Review SOP developed by the City. Please be aware that the SWMP should reference this SOP. Additionally, Germantown has a system in place that does not allow municipal permits to be issued prior to the issuance of coverage under the CGP, which helps ensure that all operators have obtained the required CGP coverage. All non-homebuilding construction sites in Germantown are considered by MS4 staff to be priority sites. Therefore, pre-construction meetings are conducted and Germantown staff inspect all these sites at least monthly, although most sites are actually inspected daily or weekly. However, the more frequent inspections are not usually documented. Germantown MS4 staff have compiled an inventory of construction sites, but the inventory is primarily paper-based.

Recommended Action: Develop a more robust construction site inventory which includes the ability to query, report and otherwise track a number of construction-related activities, including inspections, violations, repeat problems, etc. Please remember to utilize DWR's *Dataviewer* to assist in keeping track of the current status of permitted construction sites

(http://environment-online.state.tn.us:8080/pls/enf_reports/f?p=9034:34001:5444755970367:::).

Internal communication procedures regarding the review of plans submitted for construction sites within Germantown's jurisdiction, including the utilization of the Construction Plans Review SOP, should be reviewed and enhanced where necessary. For example, references to Erosion Prevention and Sediment Controls (EPSCs) on plans that are submitted to Germantown for review should be consistent with the current version of the Tennessee Erosion and Sediment

Control Handbook. Construction program requirements should be reviewed and updated as necessary to be consistent with the current version of the CGP. Special requirements for sites discharging to impaired or exceptional waters should be consistent with the current version of the CGP. Some provisions in part 4.2.4.e of the MS4 permit that are missing in the SOP, such as those regarding concrete washouts, should be included in the SOP.

Required Action: Update the applicable ordinance(s) and/or modify the SWMP as needed to provide written procedures that address:

- all requirements of the current Construction General Permit concerning special conditions for impaired and exceptional waters;
- procedures for site plan review which incorporate consideration of potential water quality impacts where direct discharges to Tennessee waters are proposed; and
- procedures addressing evaluation of submitted plans' completeness and consistency with the CGP and the Tennessee Erosion and Sediment Control Handbook.

Please refer to Section 4.2.4 of the MS4 permit for additional information.

As previously noted, Germantown has an ERP. Provisions in the ERP only address construction activities. With regard to the construction program, Germantown has relied primarily on verbal warnings in its efforts to regulate construction activities at construction sites. However, verbal warnings are not included in the ERP. Therefore, Germantown has not been following the measures outlined in the ERP. Germantown staff have not been fully utilizing civil or administrative fines/penalties, or even lesser enforcement methods such as Notices of Violation, to address compliance issues. Effective enforcement is necessary to assure compliance with the MS4 program and CGP.

Required Action: Modify the ERP to include all enforcement steps/options involving construction activity that will be available and utilized by the City's MS4 staff. Procedures for inspectors to evaluate construction site compliance should also be included. All available enforcement measures should be used to address construction-related compliance issues. Please refer to Section 4.2.4.h of the MS4 permit for additional information.

Recommended Action: Track, preferably in an electronic tracking system or database, information about construction plans reviewed, enforcement actions taken, effectiveness of various ERP measures, etc.

All Germantown construction inspectors have obtained certification under the Fundamentals of Erosion Prevention and Sediment Control Level I course. However, only Tim Bierdz has completed the Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites course. The MS4 permit requires construction site plan reviewers to have obtained certification under the Level II course. Plans review procedures currently include Tim Gwaltney, Tony Ladd and Bob Joralemon as plans reviewers.

Required Action: All construction site plan reviewers must receive a certificate of completion from the Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites course. Please refer to Section 4.2.4 of the MS4 permit for additional information. Information pertaining to the Level II class schedule can be found at www.tnepsc.org.

As part of the audit, DWR observed Scott Pittenger and Mac Mixson perform routine construction compliance evaluation inspections. These inspectors exhibited an understanding of the intent and purpose of the inspections, and an understanding of appropriate site BMPs (Best Management Practices). They use a standardized inspection form for the official monthly inspections, but daily inspections are not usually recorded in a consistent, written format, if at all. In addition, inspectors appear to only be utilizing verbal warnings which, as previously mentioned, are not included as part of Germantown's ERP, but should be added. During the audit, Germantown staff stated that they are in the process of restructuring their enforcement protocols. Overall, the inspectors seemed unclear as to what actions to take based on the level of severity of compliance issues or what constituted severe compliance issues. Please note that Germantown construction inspectors are welcome to join DWR staff on inspections outside of Germantown's jurisdictional area to gain additional experience and training.

Recommended Action: Increase Germantown stormwater staff's knowledge about the CGP, EPSCs, and the Tennessee Erosion and Sediment Control Handbook, and be aware of any updates implemented in either document. Knowledge can be gained, for example, by attending EPSC webinars, erosion control conferences, and membership in appropriate professional organizations such as the International Erosion Control Association (IECA). Additionally, inspectors should be trained in the use of enhanced enforcement options when the new procedures Mr. Bierdz stated are being developed become available.

Part 4.2.4.g of the permit requires the MS4 to have mechanisms for public access to information on projects and for receiving and considering public comments on those projects. This requirement has not been implemented.

Required Action: Develop and implement a mechanism to accommodate public input on construction projects within Germantown's jurisdiction. DWR recommends considering a link on the stormwater web page to Tim Bierdz's contact information, and perhaps a link to DWR's *Dataviewer*. Please refer to Section 4.2.4.g of the MS4 permit for additional information.

Minimum Control Measure - Permanent Stormwater Management in New Development and Redevelopment (Section 4.2.5):

This Minimum Control Measure has not been fully implemented, and the ordinance changes have not yet occurred. For Germantown, this requirement is not due until April 29, 2015. Although credits against Germantown's stormwater fee for post-development volume reductions have been implemented, this does not specifically address all the upcoming requirements in the permit for permanent stormwater management. Please understand that permanent stormwater management can be complex and will likely require additional training of stormwater staff.

Also, please be aware that this Minimum Control Measure encompasses a significant portion of the permit and should be fully understood.

Required Action: Modify the ordinances appropriately to address this program element requirement by the deadline indicated in the permit. Please refer to Section 4.2.5 of the MS4 permit for more information.

Required Action: Modify the ERP to insure project review, approval, and enforcement procedures as related to this Minimum Control Measure are consistent with the permit requirement. Please refer to Section 4.2.5.4 of the MS4 permit for more information.

Germantown has not yet developed a system to track post construction BMPs. Information to be tracked includes: project name, location, owner, start/end dates, BMP description, latitude/longitude coordinates, maintenance requirements and inspection information. This requirement was due October 29, 2011. However, due to the fact that ordinance changes have not yet occurred, a tracking system is not critical until the ordinances support this requirement of the permit.

Required Action: Implement an appropriate tracking system in advance of the ordinance changes so that the tracking system can be utilized immediately. Please refer to Section 4.2.5.6 of the MS4 permit for more information.

Germantown has not implemented a provision for permanent water quality buffers along all waters of Tennessee within Germantown at new development and redevelopment projects as required by the permit.

Required Action: Modify the relevant ordinance to provide for and implement appropriate water quality buffers. Please refer to Section 4.2.5.1 and Section 7 of the MS4 permit for more information and clarification on the required buffer widths, etc.

Minimum Control Measure – Pollution Prevention/Good Housekeeping for Municipal Operations (Section 4.2.6):

Germantown's municipally operated facilities that were visited during the audit, which were Public Services and Fleet Management, were generally well maintained, and facility personnel were knowledgeable about the sources of pollutants from municipal operations. However, several minor issues were observed during the audit. In the southeast corner of the Public Services/Fleet Management site, several 55-gallon drums were observed uncapped, which have the potential to contaminate stormwater in the event of an overflow. Please be aware that all chemical containers should be capped to ensure that exposure to stormwater does not cause an overflow and therefore cause pollution. Additionally, a concrete swale was observed in the southeast corner of the site, and stormwater discharges off-site via this swale. Litter and debris were observed down-gradient of the swale on the adjacent property; therefore, DWR recommended implementing BMPs to ensure that litter from this site does not discharge off-site during a rain event. Furthermore, sediment and dirt debris were observed surrounding the storm drain inlets south of the Fleet Management building. DWR recommended installing appropriate

BMPs around the inlet to ensure that sediment and associated contaminants do not enter the municipal storm drain system. Although some of the natural materials, such as sand and stone, that Germantown stores at this site are exposed to stormwater, the material appeared to be up-gradient enough from the nearest storm drain inlet to prevent discharge into the municipal storm drain system. However, please be aware that if run-off from the natural materials does approach the storm drain inlet, then BMPs should be implemented.

According to Germantown personnel, Fleet Services was in the process of moving from their existing building to a new building on the neighboring property. As a result of the move, equipment, including metal parts and retired vehicles, was being temporarily stored outside. DWR recommended implementing BMPs to ensure that the metal parts do not leach pollutants into the municipal storm drain system when exposed to stormwater. Additionally, DWR requested notification of when the move to the new fleet services building was complete to ensure that the existing site meets permit requirements.

Although facility personnel were knowledgeable about the site and the potential sources of pollution, a greater awareness of stormwater issues is encouraged. Furthermore, although Germantown municipal staff receives training that includes storm water issues, additional training should occur to ensure that staff receives knowledge on how to prevent and reduce stormwater pollution from municipal operations. Additionally, routine inspections of the site to determine new or reoccurring sources of pollution should occur and should be documented.

Required Action: Review and modify as necessary municipal staff training protocols to ensure that all elements of this Minimum Control Measure are being implemented. Develop long-term inspection procedures to ensure that municipally owned facilities are properly inspected and issues are corrected. Revise the SWMP to reflect these changes as necessary. Staff should receive refresher training on the reduction of pollutants in storm water runoff on a regular basis and the training should be documented. Please refer to Section 4.2.6 of the MS4 permit for additional information.

Recommended Action: When appropriate, add City operated schools to the list of municipal facilities with potential exposure to stormwater. Training for appropriate MS4 or facility staff on Pollution Prevention/Good Housekeeping for Municipal Operations should be considered for facilities where inspections are conducted.

Germantown MS4 staff informed DWR that maintenance contracts (for example, lawn (LSG) and pond maintenance) do not include language on stormwater impact and appropriate BMPs.

Recommended Action: Modify the SWMP to require maintenance contracts with outside vendors to include reference to use of appropriate BMPs to avoid possible stormwater impact from grass cutting and other contract activities. As a reminder, any such activities conducted by Germantown staff should also have written procedures to remind staff to be aware of appropriate BMPs, such as not blowing grass cuttings into storm drains.

Enforcement Response Plan (Section 4.5):

As mentioned in previous sections (Minimum Control Measure – Illicit Discharge Detection and Elimination and Minimum Control Measure – Construction Site Stormwater Runoff Control), Germantown has an Enforcement Response Plan; however the ERP only addresses construction-related issues and not all the elements required by the permit. The ERP should have been fully developed and implemented by October 2012. Germantown has informal knowledge of chronic violators, but no written plan to identify chronic violators or track them. Also, Germantown has not utilized stop work orders, civil or administrative fines/penalties as a method to achieve compliance, and has only minimally utilized written notices. Furthermore, Germantown does not have a comprehensive tracking system for enforcement actions taken by the City. Instead, the paper files are stored separately, which prevents staff from being able to track and analyze enforcement actions.

Required Action: Revise the ERP to address all requirements of the permit as they relate to enforcement. Please refer to Section 4.5 of the MS4 permit for additional information.

Required Action: Develop a formalized plan for tracking enforcement cases and chronic violators. Please refer to Sections 4.5.3 and 4.5.4 of the MS4 permit for additional information.

Recommended Action: Utilize all available enforcement measures to address compliance issues within the jurisdiction, including illicit discharges and construction related issues.

Recommended Action: Develop and utilize a more detailed tracking system, preferably electronic, for documenting key information pertaining to each violation and to allow for easier summarization of enforcement activities by location, time period, repeat violators, etc.

Monitoring, Recordkeeping and Reporting (Section 5):

Analytical Monitoring (5.1)

Due to Germantown's initiative and cooperation with the Division, required analytical monitoring has been completed. At this time no water bodies with an approved TMDL (Total Maximum Daily Load) are within Germantown's jurisdiction.

Non-analytical Monitoring (5.2)

During the audit, Germantown indicated that the required Visual Stream Survey and Impairment Inventory documenting the condition of streams is planned for Fall 2014. As a reminder, the Survey and Inventory must be performed on streams impaired by siltation, habitat alteration and pathogens where the MS4 has been identified as the source of impairment. The permit recommends that the Survey and Inventory be conducted throughout the entire HUC-12 sub-watershed of stream segments identified as impaired where the MS4 is identified as the source of

the impairment. However, the permit requires that Stream Surveys be conducted immediately up- and downstream of each MS4 outfall that discharges into an impaired stream segment.

Reporting (5.4)

Germantown has not been presenting their annual report in a public meeting or other acceptable manner prior to submission of the report to the Division.

Required Action: Present the annual report at a public hearing for suggestions and comments prior to submission to the Division by September 30th of each year. The public hearings should be properly advertised and documented. Please refer to part 5.4 of the MS4 permit for additional information.

Summary

One of the Division's missions is protection of waters of the state, so we appreciate your prompt attention and cooperation regarding the items in this audit report. And we would like to reiterate that we greatly appreciate the time and commitment from your staff during the audit. The documentation and assistance provided by Germantown staff enabled the audit to be conducted and completed in a timely and thorough manner.

During the audit, Division staff found several areas where modification or improvement to Germantown's MS4 program should be considered. For example, DWR strongly recommends that an upgraded tracking system be implemented to improve tracking and organization of all elements of the MS4 program. Although Germantown generally meets the minimum permit requirements for documenting activities, Germantown staff were not always able to provide relevant documentation to verify activities or effectively track important information such as but not limited to, enforcement actions. However, Division staff felt that Germantown's MS4 staff are trying to fulfill Germantown's MS4 responsibilities in a professional and competent manner. The Division encourages the MS4 staff and any other interested Germantown staff or elected officials to contact us at any time with questions or comments. The Division also wants to remind you that the MS4 permit renewal and public comment process occurs every five years and we strongly encourage you to participate. The current permit expires in September 2015 and will hopefully be re-issued shortly thereafter in 2015. Notification of the public comment period for the new permit will be provided to the MS4s and public prior to re-issuance.

Required Action: Please provide a written response to the Division by September 30, 2014, that discusses how the requirements that have been noted will be addressed and your proposed timeline for those items to be addressed. Also include information about the division's recommended actions and how those which will be implemented will be accomplished.

If you have any questions or concerns with regard to the MS4 permit or this audit report, please contact Crystal Warren at 901-371-3164 or via email at Crystal.Warren@tn.gov, or Terry Templeton at 901-371-3018 or via email at Terry.Templeton@tn.gov.

Sincerely,



Joellyn Brazile, CPESC
Environmental Program Manager
Division of Water Resources
Memphis Environmental Field Office

Enclosure: EPA Water Compliance Inspection Report (Form 3560)

cc: TDEC/DWR/MEFO – file
TDEC/DWR/NCO – Enforcement & Compliance Section

cc: Mr. Cameron Ross, ECD Director
Mr. Tim Gwaltney, City Engineer
Mr. Tim Bierdz, Stormwater Engineer